



John L. Salomone
Town Manager

TOWN OF NEWINGTON

131 CEDAR STREET
NEWINGTON, CONNECTICUT 06111

MAYOR JEFF WRIGHT

MINUTES

NEWINGTON TOWN COUNCIL MEETING

January 13, 2009

Mayor Wright called the meeting to order at 7:00 PM in the Helen Nelson Room of the Newington Town Hall.

I PLEDGE OF ALLEGIANCE

II ROLL CALL

Councilors Present

Councilor Banach
Councilor Boni
Councilor Bottalico
Councilor Bowen
Councilor Cohen
Councilor Lenares
Councilor Nagel
Councilor Nasinnyk
Mayor Wright

Staff Present

Town Manager Salomone
Lori Verreault, Executive Assistant
Ann Harter, Finance Director
Ben Ancona, Town Attorney
Justin Clark, Counsel – Charter Revision Commission

III PUBLIC PARTICIPATION – IN GENERAL

Sandy Lallier, 27 Elton Drive: Mrs. Lallier commented that there was a good turnout at the public hearing regarding the Charter revision draft held on the previous day. She urged the Councilors to take the public's comments to heart and to send the Charter draft back to the Commission for review; even sections other than 821 need work. She expressed concern with the order of the agenda for the current meeting as the agenda calls for the Council to accept the draft first and requested clarification of the order of the agenda. Mrs. Lallier urged the public to take the time to review the Charter draft and also requested that each Councilor and Commissioner state publicly why they voted for or against the acceptance of the Charter revision draft.

Carol Anest, 30 Harding Avenue: Ms. Anest thanked members of the public for coming out to speak at the Public Hearing. She stated that the concerns raised over the revisions are not scare tactics and stated that the Charter must be able to serve the public for many years and requested that the Council send the draft report back to the Commission for revisions. She stated that this document cannot be taken lightly and errors within the document will cause major problems down the road. She requested that the document be sent back to the Commission for review and for a human (rather than a computer) to carefully scan the document line by line for errors. Ms. Anest challenged each Councilor to make a statement for the record as to why they are voting for or against acceptance of the draft.

Phone: (860) 665-8510 Fax: (860) 665-8507
townmanager@newingtonct.gov
www.newingtonct.gov

Michael J. Fox, 1901 Main Street: Mr. Fox stated that he does not understand being labeled as a radical at the Public Hearing as he does not understand what is so radical about people commenting against what they think is wrong in order to try to convince the Council to do what is best for the Town. He stated that the proposals are radical, and stated that there are many things wrong with sections 821 and 415. He urged the Council to send the draft report back to the Commission for revisions for the good of the Town, not for political promises. .

Rose Lyons, 46 Elton Drive: Ms. Lyons noted that she was also labeled a radical and indicated that in research of the term she learned that the term at one point meant "Republican". She requested that the Council return the draft to the Commission for revision. Ms. Lyons also requested that the referendum to approve the Charter not be held during school vacation. She requested that budget books as presented to the Council and Board be made available to the public. She also requested that the phone line be put into use for public questions during Council meetings and that all questions asked by the public be answered in writing.

Joyce Lozinski, 21 Red Rock Circle: Ms. Lozinski stated concern that the Town will not see the negative impact of the three-percent tax cap and budget referendum for ten or more years, and expressed concern over how this Charter will negatively affect education for the next generation. Ms. Lozinski requested that the Council reconsider the referendum and the tax-cap and requested that the vote on the Charter not be held during school vacation.

Hy Braverman, 39 Churchill Way: Mr. Braverman stated that in order to make an informed decision on the budget voters must have access to the line-by-line information in the budget book. He noted that many Town residents do not get NCTV, and stated that it is important that information is available to every single voter in the Town, not just to the taxpayers. He inquired as to why the Council is rushing this process.

Lee Blum, 117 Jeffery Lane: Mr. Blum inquired whether Councilors who are in favor of the three-percent tax cap and budget referendum have thought the notion through and noted that four former Mayors (Mayors Reynolds, Andersen, Randich and Mortensen) questioned section 821 during the Public Hearing and had opposed the language as written, even if they agreed with the concept of a budget referendum or a cap on taxes. He stated that the opinions of these four people should at least cause the Council to stop and think. He inquired whether the Commission considered other versions of the document or other plans and urged the Council not to pass the poorly drafted proposal.

Gail Kelly, 104 Carriage Hill Drive: Mrs. Kelly stated that she is not in favor of the budget referendum, as a budget referendum abdicates the Town Council's responsibility to set policy and to set the budget. She inquired about the cost of a budget referendum, including the cost of the mailings and other materials related to each referendum and whether the money could be better spent on much-needed essentials. She inquired what will need to be cut in order to spend the money on the referendums.

Mark Pappa, 105 Back Lane, Mr. Pappa stated that Town currently has about a \$93 million budget and adding even slightly under three-percent to that budget would add about a \$2.7 million dollars in additional funding to address the needs of the Town. He stated that the Town will not suffer with a three-percent tax cap, and stated that the referendum process will bring a level of transparency to the budget process. Mr. Pappa stated that under this plan people will be able to know why their taxes are going to go up and will have a say in whether the taxes go up. He stated that it will be up to the Council to sell an increase of greater than three-percent to the voters, and indicated that there will not be referendums held in years in which the budget is increasing by less than three-percent. Mr. Pappa remarked that if the public has the knowledge to vote on a major project such as the MDC project or the Police Station project then they will be able to handle a vote on the budget.

IV CONSIDERATION OF OLD BUSINESS

Councilor Bowen moved to change the order of the agenda to address item IV-B-1, Accept Draft as Final Report after addressing item IV-B-2, Any Recommended Changes to the Charter Revision Draft Report. He stated that it does not make sense to discuss revisions after voting to approve the draft. Motion seconded by Councilor Banach.

Councilor Banach stated that the order of the agenda does not make sense as written and noted that there are motions for revisions to the document on the agenda. Councilor Nasinnyk agreed, noting that the resolution to accept the report states that the Council has no recommendations for changes, yet there are recommendations to be discussed. Councilor Cohen agreed that it is not logical to accept the draft prior to discussing any

changes. Councilor Bowen expressed concern that accepting the draft without considering recommendations heard at the Public Hearing would send a negative message to the public that came out to participate in the process.

Mayor Wright stated that the order of the agenda is correct as it is, and stated that the Council has heard both sides of the argument throughout the process. He requested a roll call vote.

Roll Call Vote:

Councilor Banach – Yes
Councilor Boni – No
Councilor Bottalico – No
Councilor Bowen – Yes
Councilor Cohen – Yes
Councilor Lenares – No
Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright – No

Motion failed 4-5 as indicated.

A Emergency Generator – Newington High School: Bid Award

Town Manager Salomone stated that this is an accounting adjustment that needs to be made to recognize DPUC grant funds for the generator. Ann Harter, Finance Director, indicated that there are two components of the project, the generator and the air conditioner, and stated that available funds for the air conditioning project need to be moved to the generator portion of the project. She stated that the Council needs to accept the grant to make the funds available in order to accept the bids for the project.

Councilor Bowen noted that the project is still coming in on budget, and that this action is just to move funds from one part to the other. He inquired about the amount of the grant. Mrs. Harter replied that grant funds of up to \$160,000 are available.

Deputy Mayor Lenares moved the following:

CERTIFICATION:

In accordance with Section 808 of the Town Charter, I hereby certify that there exists, free from encumbrances, in the following appropriations in the Public Building Fund, the amounts listed below:

| <u>Account Number</u> | <u>Title</u> | <u>Amount</u> |
|---------------------------|------------------------------|---------------|
| 88909 | High School Air Conditioning | \$160,000 |

Ann J. Harter, Director of Finance

RESOLVED:

That the Newington Town Council hereby transfers the above-certified funds in the Public Building Fund to the following account in the Capital and Non-Recurring Expenditures Fund:

| <u>Account Number</u> | <u>Title</u> | <u>Amount</u> |
|---------------------------|--------------------------------|---------------|
| 88928 | High School Stand-By Generator | \$160,000 |

BE IT FURTHER RESOLVED:

That John L. Salomone, Town Manager of the Town of Newington, is hereby authorized to execute on behalf of the Town of Newington a grant award from the Department of Public Utility Control for a customer-side distributed generation capital grant for the High School Stand-By Emergency Back-up Generator.

BE IT FURTHER RESOLVED:

That the Newington Town Council pursuant to Chapter 8, Article X, Project Building Committees, of the Newington Code of Ordinances,

- (1) **accepts the bid of Holzner Electrical Construction of Bridgeport for emergency generator work at the Newington High School in the amount of \$316,400; and**
- (2) **authorizes the Town Manager to enter into contact with Holzner Electrical Construction for the amounts indicated in accordance with the Final Project Budget.**

Motion seconded by Councilor Boni. Motion passed 9-0.

| | |
|---|-------------------------------------|
| B | Charter Revision |
| 1 | Accept Draft Report as Final Report |

Deputy Mayor Lenares moved the following:

WHEREAS, the Town Council has received a draft report from the Charter Revision Commission, through the Town Clerk pursuant to Connecticut General Statutes § 7-191 (b); and

WHEREAS, one public hearing on said draft report was held not later than forty-five days after the submission of the draft report to the Town Clerk; and

WHEREAS, the Town Council has no recommendations for changes in said draft report; and

WHEREAS, the Town Council has complied with all conditions precedent to making said draft report a final report pursuant to Connecticut General Statutes § 7-191;

NOW THEREFORE BE IT RESOLVED, that said draft report is hereby final and the appointing authority shall act on said final report in accordance with Connecticut General Statutes § 7-191.

Motion seconded by Councilor Bottalico.

Mayor Wright gave an overview of the Charter Commission Revision's process, which included twenty-two public meetings and two public hearings. Councilor Cohen noted that State Statute 7-190(b) states: "The Commission shall in its reports comment on each recommendation which it has been directed to consider and on such other changes or items as it deems desirable or necessary." She noted that the Commission's final report lists the charges from the Council but does not include the Commission's actions on those charges, nor does it list the Commission's other actions or the items that the Commission considered but did not change. She stated that she does not consider this a complete and final draft report. Councilor Cohen stated that the report should have included an indication that the Mayor was a very active ex officio member of the Commission and attended and participated in many meetings. Mayor Wright inquired whether the draft report as presented by the Commission meets all State statutory requirements and whether it can be used for the Council to create the final report. Atty. Clark replied in the affirmative and stated that the draft report does include the Commission's actions because changes made in the draft Charter reflect changes made by the Commission.

Councilor Bowen inquired how anyone is to know what changes occurred in the document, and indicated that unless the current Charter and the draft Charter are held side-by-side there is not way to know what changes were made. Atty. Clark stated that if one reads the Council's charges to the Commission and then reads the corresponding changes to the Charter then one will see that the changes have been addressed. He also noted that a red-line version of the document is available on the Town's website. Mayor Wright noted that each Councilor should have received the red-line version of the document. Councilor Cohen indicated that the red-line version of the document was not included in the official report to the Council. Atty. Clark stated that the charges were addressed. Councilor Bowen inquired whether Atty.'s Clark and Ancona work for the Mayor or the

Town Council. Atty. Ancona stated that he works for the Town of Newington, including the Council and indicated that he is appointed by the Mayor. Councilor Bowen noted language in the resolution which states: "WHEREAS, the Town Council has no recommendations for changes in said draft report" and noted that there is in fact an entire list of recommended changes to be discussed and inquired whether the statement that the Council has no recommendation for changes is a factual statement. Atty. Ancona replied that it would be wise for the Council to consider Councilor Cohen's recommendations as a part of the discussion on section 1 of the agenda. He stated, however, that when it is time to vote on the resolution on the table, Councilor Cohen will have been heard and at that moment the statement "WHEREAS, the Town Council has no recommendations for changes in said draft report" will be factual. Councilor Bowen inquired whether the Council could vote on the motion when there are in fact recommendations. Atty. Ancona stated that once Councilor Cohen's recommendations have been heard a vote can be taken. Mayor Wright stated that if the majority wants to move forward to make it a final draft and if the majority does not have any changes to recommend to the Charter Commission then it is true statement. Councilor Banach inquired about how there could be a presumption of a majority prior to a vote. He stated that it is indefensible to try to pass a document without considering the speakers at the Public Hearing, including those with the experience of former Mayor Reynolds who had stated that it is a sloppy document. He stated that it is out of order to vote through the document and then to discuss changes, and remarked that rushing ahead presents a very dismissive attitude towards the public.

Mayor Wright noted former Mayor Reynolds's concerns about the legality of Councilor Boni serving on the Commission and inquired whether the process was handled correctly. Atty. Clark replied that former Mayor Reynolds is incorrect about Councilor Boni serving on the Commission and stated that it is governed by the Home Rule Act which was described by the Connecticut Supreme Court as "the Legislature intended the procedure to be a complete, self-contained method not involving action by the General Assembly of amending the Charter of a city, irrespective of any existing Charter provision." He stated that the rule was meant to keep Charter revision separate from the existing structure in order to allow for changes to the existing structure. Councilor Bottalico inquired to the attorneys as to whether the Charter revision draft was written correctly. Atty. Clark replied in the affirmative and Atty. Ancona stated that it does conform to all legal requirements. Councilor Boni stated that the Commission has reviewed each section of the Charter at least two times, and stated that if there were twenty people reviewing the Charter each will have different opinions about the wording. He stated that except for the budget referendum section, all other changes were agreed upon by all of the Commissioners and he remarked that there was a definite movement by the opposition to sabotage the budget referendum. Councilor Boni stated that it is the voters that will make the final decision on the revisions. Councilor Nagel concurred with Councilor Boni and stated that it is ultimately up to the public to make the decision, and stated that at some point the item must be brought to the public.

Councilor Nasinnyk inquired whether the Council will be working on any proposed changes prior to voting for the motion on the table. Atty. Ancona explained that this is the opportunity for Councilor Cohen to be heard, as she rightfully deserves. Councilor Nasinnyk again stated that it does not make any sense to vote on the document prior to discussing any changes. Councilor Bowen inquired whether this is the appropriate time for Councilor Cohen to raise her concerns. Atty. Ancona replied in the affirmative. Councilor Cohen stated that each of her issues are in the form of a resolution and would require a vote.

Mayor Wright stated that the process needs to move forward and in the interest of time he requested that Deputy Mayor Lenares agree to withdraw the motion and Councilor Bottalico agree to withdraw his second. Deputy Mayor Lenares and Councilor Bottalico agreed and the motion was withdrawn pending discussion of Councilor Cohen's motions.

2 Any Recommended Changes to the Charter Revision Draft Report

Councilor Cohen moved the following:

WHEREAS, pursuant to Connecticut General Statutes Section 7-191(b), the Newington Town Council, as the appointing authority for the Town of Newington, has received the draft report from the Newington Charter Revision Commission on December 16, 2008; and
WHEREAS, the Newington Town Council is authorized under Section 7-191(b) to "make recommendations to the commission for such changes in the draft report as it deems desirable"; and
WHEREAS, the Newington Town Council desires changes to the draft report;

THEREFORE BE IT RESOLVED, pursuant to Connecticut General Statutes Section 7-191(b), the Newington Town Council hereby makes the following recommendation(s) for change to the draft report of the Newington Charter Revision Commission:

Add to Section 407 of the Charter the following language:

“Tax anticipation notes shall be issued in accordance with Section 812 without public hearing.”

Motion seconded by Councilor Nasinnyk.

Councilor Cohen noted that during the Commission's discussion of the area regarding tax anticipation notes it was determined that the Town no longer uses tax anticipation notes, however, by the time the Commission discussed section 812 the economy had taken a nose-dive and it was determined that the Town may need tax anticipation notes at some point so reference to tax anticipation notes was left in section 812. She stated that if the reference was left in section 812 then it needs to go back into section 407 that a public hearing is not required to issue the notes. Councilor Bowen inquired whether it is required for the wording to be included in section 407 if it is included in section 812. Atty. Clark stated that the Charter can contemplate tax anticipation notes without specifying the way they are set up. He stated that whether or not to make Councilor Cohen's change is a policy question rather than a legal question. Councilor Bowen inquired whether the Commission had considered Councilor Cohen's question. Atty. Clark replied in the affirmative and stated that the Commission made the policy decision to leave the Charter as written in the draft. Councilor Nagel inquired whether the language is needed in section 407. Atty. Clark replied in the negative. Councilor Cohen stated that the recommendation is to not require a public hearing for tax anticipation notes and remarked that she does not recall the Commission discussing the item.

Roll Call Vote:

Councilor Banach - No
Councilor Boni – No
Councilor Bottalico – No
Councilor Bowen – No
Councilor Cohen – Yes
Councilor Lenares – No
Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright - No

Motion failed 2-7

Councilor Cohen moved the following:

Add to Section 408 of the Charter the following language:

In heading: “...and Special Appropriations.”

After existing text “...at a regular election or special election called by the Council for that purpose” new text “...and such majority consists of 10% or more of the total number of qualified electors of the Town whose names appear upon the last completed Registry List.”

Motion seconded by Councilor Banach.

Councilor Cohen noted that all references to required minimum number of voters for referendums have been removed from the Charter and stated that these requirements should be restored. Councilor Banach agreed that there should be a minimum ten-percent voter turnout and questioned the logic as to why the requirements have been removed. Councilor Bowen agreed and requested an explanation as to why the requirements were removed. Mayor Wright stated that the philosophy of the majority of the Commission members is that people have the right, responsibility and choice to vote. He stated that the history of the Town shows that people are willing to come out and vote, they are educated and they want to be a part of the process. He stated that therefore the Charter does not need a minimum. Councilor Bowen stated that he would support Councilor Cohen's recommendation in order to protect the Town from extraordinary circumstances in which a referendum is put forth in a contrived way to reduce voter turnout and possibly pass something that is not good for the Town. Councilor Nasinnyk agreed with Councilor Bowen.

Roll Call Vote:
Councilor Banach - Yes
Councilor Boni – No
Councilor Bottalico – No
Councilor Bowen – Yes
Councilor Cohen – Yes
Councilor Lenares – No
Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright – No

Motion failed 4-5

Councilor Cohen moved the following:

Delete from Section 410 the following:

~~“The ordinance shall not become effective until the same has been approved by a majority of the qualified electors voting thereon at such regular election or special election. The ordinance shall take effect upon approval.”~~

Add to Section 410 the following:

“The ordinance shall be null and void in the event that a majority of the electors voting thereon, such majority consisting of at least 10% of the qualified electors of the town, shall vote in the negative. Otherwise it shall take effect immediately following the referendum.”

Motion seconded by Councilor Banach.

Councilor Cohen stated that besides the ten-percent voter requirement this is also an issue in which the Council passes an ordinance that the public does not agree with, therefore the public petitions a referendum on that ordinance. She stated that the ordinance will pass unless enough voters come out to reject the ordinance. She stated that this wording was changed around so that it would have to be approved, not rejected by the public. Councilor Cohen remarked that she does not recall the Commission discussing this language and recommended that the language be changed back to how it was. She stated that ordinances do not require voter approval to be passed but they do require voter rejection to be rejected. Atty. Clark stated that the Commission did discuss the provision and noted that the Commission had decided that this change was appropriate. Councilor Bowen inquired whether the Council has the right to pass an ordinance. Atty. Ancona replied in the affirmative. Councilor Bowen stated that an ordinance does not have to be voted on by the public in order to be passed. Atty. Ancona agreed. Councilor Bowen inquired whether this section is worded correctly. Atty. Clark replied in the affirmative and explained that the language does include the voters' right to petition for a referendum in accordance with Connecticut General Statutes. He stated that a referendum on an ordinance is not required without a petition. Mayor Wright stated that the language works as written. Councilor Banach inquired what necessitated the change to the language. Atty. Clark referred Councilor Banach to the minutes of the Charter Commission for details. Councilor Nasinnyk noted that the issue is that the voters should be voting down the referendum to reject it, not voting to approve it as it would be approved by the Council without a vote. Councilor Cohen stated that the purpose of the petition is because people want to vote the ordinance down and noted that if there not enough votes to vote the ordinance down then it does not exist. She stated that the changes made to the language are incorrect. Councilor Bowen inquired whether the referendum question would be the same as the petition question. Atty. Ancona replied that the referendum question would be governed by State statutes. Atty. Clark stated that the Commission made the policy choice to make the vote affirmative rather than negative. Councilor Bowen inquired whether it is legal to flip the question from the petition to the referendum. He expressed concern that doing so could circumvent the public's wishes. Atty. Ancona stated that he does not see a problem with the draft language as written. Councilor Bowen inquired as to the meaning of “a policy decision”. Atty. Clark replied that a body was formed to amend or change the Charter, and this body made a choice to make that change. He stated that it is the Council's purview to discuss these policy changes. Atty. Ancona stated that it is not the attorney's purview to give advice on policy changes, only on legal issues. Councilor Banach stated that he is in favor of Councilor Cohen's recommendations.

Roll Call Vote:
Councilor Banach - Yes
Councilor Boni – No

Councilor Bottalico – No
Councilor Bowen – Yes
Councilor Cohen – Yes
Councilor Lenares – No
Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright – No

Motion failed 4-5

Councilor Cohen moved the following:

Add to Section 411 of the Charter the following language:

Insert after existing text “The ordinance shall be adopted if a majority of those voting vote in the affirmative” new text “, ...and such majority consists of 10% or more of the total number of qualified electors of the Town whose names appear upon the last completed Registry List.”

If Section 821 of the Charter does not remain in the Charter, delete:

~~“Nothing in this section shall be construed to preclude the right of referendum on a budget pursuant to any other section of this Charter.”~~

Motion seconded by Councilor Nasinnyk.

Councilor Cohen stated that in this case the voters are initiating the vote, and in such case there must be a minimum requirement in order to avoid having a situation in which only a couple of people sign a petition and vote on an item.

Roll Call Vote:

Councilor Banach - Yes
Councilor Boni – No
Councilor Bottalico – No
Councilor Bowen – Yes
Councilor Cohen – Yes
Councilor Lenares – No
Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright – No

Motion failed 4-5

Councilor Cohen moved the following:

Add to Section 415 of the Charter the following language:

Insert after existing text “...created pursuant to Article VI, §610” new text: “However, no member of the Council or Board of Education shall hold a seat on any Board, Commission or Committee that is intended to be filled by a member of the public.”

Motion seconded by Councilor Banach.

Councilor Cohen noted that there have been many questions raised by the public about the right of an elected official to serve as a voting member on a board or commission and stated that although many people believe that no elected official should serve as a voting member of any board or commission she believes that there are certain committees, such as building committees, that should include an elected official. She stated that while she does not want to specifically eliminate the ability of any elected official to serve on a committee she does not feel that positions intended to be filled by the members of the public should be filled by an elected official. Councilor Bowen stated that he shares Councilor Cohen’s concerns about elected officials filling seats that are intended for members of the public, but noted that Councilor Cohen’s language is ambiguous as written. He stated that there are no boards or commissions that clearly define which seats are supposed to be filled by members of the public and which are not and expressed concern with how this requirement will be enforced. Councilor Cohen stated that her resolution is simply to send the item back to the Commission for discussion on how to fix the language and is not intended to actually amend the draft language. Councilor Bowen stated that

Councilor Cohen's opinion is that as many seats as possible should be left open to the public in order to make the process as open as possible, and as more seats are taken up by elected officials there is a decrease in the democratic process. Mayor Wright stated that under the draft language the only way that an elected official may serve as a voting member of a board or commission is if they are specifically authorized by the Charter or by resolution. He stated that the language in the draft document is appropriate as written. He stated that the objective is to allow as much public participation as possible.

Roll Call Vote:

Councilor Banach - Yes
Councilor Boni – No
Councilor Bottalico – No
Councilor Bowen – Yes
Councilor Cohen – Yes
Councilor Lenares – No
Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright - No

Motion failed 4-5

Councilor Cohen moved the following:

Add to Section 709 of the Charter the following language:

Insert after existing text "...except those which the Council determines shall be administered by other Commissions" new text "...or Departments."

Motion seconded by Councilor Nasinnyk.

Councilor Cohen indicated that this language states that the Human Services Department administers and coordinates all forms of public assistance except those which the Council determines shall be administered by other Commissions. She stated that it is not only commissions that would administer these services it is also departments, such as Parks and Recreations and the Library. She stated that it is a minor change but the word "departments" should be put back into the language. Councilor Bowen inquired whether the language will function without the minor change. Councilor Cohen replied that she is unsure. Deputy Mayor Lenares stated that different people will have different opinions about what wording should be used. Councilor Banach agreed with Councilor Cohen and stated that although it is a minor change it is also a necessary change. Town Manager Salomone stated that the final sentence of the section serves as a catchall and will provide a little bit more room to fine-tune the duties. He stated that adding the word "departments" will not hurt but remarked that the last sentence does provide for flexibility. Mayor Wright stated that the document works as written. Councilor Nagel inquired whether not including the word "Departments" will cause a legal problem for the Town. Atty. Clark replied in the negative.

Roll Call Vote:

Councilor Banach - Yes
Councilor Boni – No
Councilor Bottalico – No
Councilor Bowen – No
Councilor Cohen – Yes
Councilor Lenares – No
Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright – No

Motion failed 3-6

Councilor Cohen moved the following:

Add to Section 805A of the Charter the following language:

Insert after existing text "...it shall adopt the Town budget by a majority vote of all its members." new text "*The Council shall simultaneously fix the tax rate in mills which shall be levied on taxable property in the Town for the ensuing fiscal year.*"

Insert after existing text “In the event the Council shall fail to adopt the Town budget on or prior to the date provided, the Manager’s proposed budget as submitted to the Council shall be deemed to have been finally adopted by the Council...” new text “...*as the Town budget, and thereafter expenditures shall be in accordance with said budget. In the event the Council shall fail to fix the tax rate on or prior to the date prescribed, the Manager shall fix said tax rate in mills.*”

If Section 821 of the Charter does not remain in the Charter, delete:

~~“After the budget has been adopted, it shall then be submitted to the electors of the Town for approval or disapproval as prescribed in Section 821.”~~

Motion seconded by Councilor Nasinnyk.

Councilor Cohen stated that the Charter Commission removed references to the mill rate in section 805, and stated that leaving the mill rate in the section does not change the ability to hold a budget referendum and stated that the mill rate must be established. She stated that the referendum refers to a comparison against the current and proposed mill rates in relation to the three-percent cap and stated that there must be a proposed mill rate in order to have that comparison. She requested that the language be put back as it was.

Roll Call Vote:

Councilor Banach - Yes

Councilor Boni – No

Councilor Bottalico – No

Councilor Bowen – Yes

Councilor Cohen – Yes

Councilor Lenares – No

Councilor Nagel – No

Councilor Nasinnyk – Yes

Mayor Wright – No

Motion failed 4-5

Councilor Cohen moved the following:

SUBSTITUTE ITEM

Delete from Section 808 of the Charter the following language:

~~“Transfers among any capital projects funds may occur at any time.”~~

Insert as the last sentence of Section 808:

***“Transfer of the whole or any part of any unencumbered balance may be made by the Council at any time among any capital projects funds provided that there shall be attached to the resolution making the transfer the certification of the Director of Finance that such balance exists free from encumbrances.*”**

Motion seconded by Councilor Banach.

Councilor Cohen indicated that the Finance Director had made a recommendation to the Commission but had left it up to the Commission to come up with the language. She stated that the Commission’s language was not what the Finance Director had in mind. Councilor Cohen stated that she ran her proposed revision by the Finance Director, who agreed that the revisions were exactly what she was looking for in the first place. Councilor Banach agreed with Councilor Cohen. Mayor Wright noted that the language works as written.

Roll Call Vote:

Councilor Banach - Yes

Councilor Boni – No

Councilor Bottalico – No

Councilor Bowen – Yes

Councilor Cohen – Yes

Councilor Lenares – No

Councilor Nagel – No

Councilor Nasinnyk – Yes

Mayor Wright – No

Motion failed 4-5

Councilor Cohen moved the following:

As to Section 821, the Commission is to reconsider the idea of a mandatory budget referendum. Further consideration is to be given to the removal of any language establishing a budget referendum under the Charter. If the Charter is to have a budget referendum, consider language to make it permissive, that is, by way of a petition from electors, and no reference to a mandatory budget cap is to be included, and, remove the language as to a second mandatory referendum.

The Commission is further instructed to review the time parameters set out in Sections 803, 804 and 805A of the Charter to insure all changes made to Section 821 adequately reflect a final budget by June 30.

Motion seconded by Councilor Banach.

Councilor Cohen remarked that after listening to the public the Commission should go back and reconsider the idea of a mandatory budget referendum, and should also consider the idea of a referendum by petition or no referendum at all. Councilor Nasinnyk stated that this resolution is a good starting point that addresses a compromise between the two sides of the issue of whether or not to have a mandatory budget referendum. She indicated that although she doesn't know how many documents were looked at, only one document was presented to the Commission for discussion. She stated that in the interest of full disclosure this issue should be sent back to the Commission for review and she stated support for Councilor Cohen's resolution. Councilor Bowen stated that he is not in favor of a budget referendum. He expressed disagreement with former Mayor Mortensen's opinion that the public does not participate and stated that when residents are unhappy with an issue it makes its voice heard loud and clear. Councilor Bowen noted that although former Mayor Mortensen has indicated that he is in favor of a budget referendum he is in favor of a permissive referendum that requires a petition. Councilor Bowen stated that this is an excellent compromise and urged the Commission and the Council to sit down to structure a way that would make it simple for the public to petition for a referendum. Councilor Bowen inquired as to the cost of each referendum, noting that the \$10,000 to \$20,000 estimate previously quoted is a large range. Town Manager Salomone replied that the cost depends on whether it is a full or half-day referendum as well as the number of polling places used. Councilor Bowen inquired whether the cost includes legal notices and mailings. Town Manager Salomone replied that the cost includes legal notices but likely does not include mailings. He stated that the mailings are not mandatory, and can be at the discretion of the Council. Councilor Bowen indicated that the post card mailings cost about fifty-cents each and could cost the Town an addition \$8,000 - \$10,000.

Councilor Bowen inquired how the proposed education circuit breaker would work in the budget and with budgets of two different sizes. He also inquired why the Commission felt the need to include the circuit breaker in the language. Councilor Cohen noted that there will be motion regarding the education circuit breaker to follow. Councilor Bowen agreed to table his question pending that discussion.

Councilor Cohen inquired whether schools are generally closed on voting days. Mayor Wright stated that schools have historically been closed for November general elections but have remained opened for referendums and primaries. Councilor Cohen inquired whether notices are sent to individual voters or to households. Councilor Boni noted that the discussion should be regarding permissive versus mandatory referendums. Mayor Wright stated that section 821 works well as written and will empower the people without placing an extra burden on the people. He stated that this will allow the voters the automatic opportunity to vote on a budget of greater than three-percent. He noted that Commission Boorman did present another version of the referendum process to the Commission and stated that anyone could have brought another version of the document to the Commission at any time during the process.

Roll Call Vote:

Councilor Banach - Yes

Councilor Boni – No

Councilor Bottalico – No

Councilor Bowen – Yes

Councilor Cohen – Yes

Councilor Lenares – No

Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright – No

Motion failed 4-5

Councilor Cohen moved the following:

Delete from the last sentence of Section 821A of the Charter the following language:
“...expenditures exceed the total of the current fiscal year’s total expenditures...”

Insert in its place:

“...appropriations exceed the total of the current fiscal year’s total appropriations...”

Motion seconded by Councilor Nasinnyk.

Councilor Cohen stated that “appropriations” refer to money coming in, and “expenditures” refer to money going out. She stated that it is not an interchangeable term. Councilor Bowen agreed. Mayor Wright stated that the language is correct as written.

Roll Call Vote:

Councilor Banach - Yes
Councilor Boni – No
Councilor Bottalico – No
Councilor Bowen – Yes
Councilor Cohen – Yes
Councilor Lenares – No
Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright – No

Motion failed 4-5

Mayor Wright moved the following:

Delete from the first sentence of Sections 821C of the Charter the following language:
“...the real dollar value of the Budget, its...”

Insert in its place:

“...total appropriations, estimated revenues from non-tax sources and net adjusted collectible grand list, their...”

Insert as the last sentence of Section 821C:

“If the Budget is adopted in a budget year when the total assessment reflects the revaluation of any real property in the Town from the current year, including any deferred revaluation, the mailed notice shall not include any reference to the mill rate.”

Motion seconded by Councilor Nasinnyk

Councilor Bowen stated that there is a definition of “real dollar value in economics and it does not mean “appropriations”. He stated that Councilor Cohen’s suggestion is not to change the intent, but to change the terminology to be correct and as accurate as possible. Councilor Cohen indicated that this resolution also includes the recommendation that the notices sent to the public include the estimated revenue, non-tax sources and the net adjustable collectable grand list. She stated that in revaluation years reference to the mill rate should not be included in the notices because the mill rate will not apply in revaluation years. Councilor Nasinnyk stated Councilor Cohen’s proposal clarifies the language and corrects the document. Mayor Wright indicated that the Commission discussed the section in detail and stated that it works as written.

Roll Call Vote:

Councilor Banach - Yes
Councilor Boni – No
Councilor Bottalico – No
Councilor Bowen – Yes
Councilor Cohen – Yes

Councilor Lenares – No
Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright – No

Motion failed 4-5

Councilor Cohen moved the following:

Delete from the first bullet of Section 821D of the Charter the following language:

~~“here insert real dollar value...”~~

Insert in its place:

“here insert total appropriations...”

After the third bullet of the five bullets, insert:

“If the Budget is adopted in a budget year when the total assessment reflects the revaluation of any real property in the Town from the current year, including any deferred revaluation, the mailed notice shall not include any reference to the mill rate.”

Add the following as additional bullets:

- **“The estimated revenues from non-tax sources for the adopted fiscal year [here insert fiscal year in bold type] totals \$[here insert the estimated revenues from non-tax sources]. This represents a [here insert percentage in bold type]% [here insert increase or decrease in bold type] from the current year’s budget. [If no increase or decrease, this line should read “This represents no change from the current year’s budget.”]”**
- **“The net adjusted collectible grand list for the adopted fiscal year [here insert fiscal year in bold type] total \$[here insert the net adjusted collectible grand list]. This represents a [here insert percentage in bold type]% [here insert increase or decrease in bold type] from the current year’s budget. [If no increase or decrease, this line should read “This represents no change from the current year’s budget.”]”**

Motion seconded by Councilor Banach.

Councilor Cohen stated that this outlines the wording that should be included in the mailings and requires that the net adjustable grand list and the estimated revenues from non-tax sources must be included in the mailings, and that the mailings should not include the mill rate during revaluation years. Mayor Wright indicated that the Commission discussed the mailings in length and stated that all of the needed information is included in the mailings and that the language works as-is.

Roll Call Vote:

Councilor Banach - Yes
Councilor Boni – No
Councilor Bottalico – No
Councilor Bowen – Yes
Councilor Cohen – Yes
Councilor Lenares – No
Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright – No

Motion failed 4-5

Councilor Cohen moved the following:

Delete from the first sentence of Section 821F of the Charter the following language:

~~“If the Budget is approved by a majority of those electors voting at the referendum...”~~

Insert in its place:

“If the Budget is not rejected by a majority of those electors voting at the referendum and such majority consists of 10% or more of the total number of qualified electors whose names appear upon the last completed Registry List, ...”

Motion seconded by Councilor Nasinnyk.

Councilor Cohen stated that this recommendation not only inserts the a requirement for a minimum number of voters required to vote, it also leaves it up to the voters to reject the budget rather than to accept the budget. Mayor Wright stated that it is a matter of semantics.

Roll Call Vote:

Councilor Banach - Yes
Councilor Boni – No
Councilor Bottalico – No
Councilor Bowen – Yes
Councilor Cohen – Yes
Councilor Lenares – No
Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright – No

Motion failed 4-5

Councilor Cohen moved the following:

Add after the last sentence of Section 821G:

“After the Council has adopted a Substitute Budget, the Council shall notice and hold a public hearing prior to the referendum referenced in Section 821H.”

Motion seconded by Councilor Banach.

Councilor Cohen indicated that it should be up the voters to reject the Council's budget and that after the first referendum has failed and there should be another public hearing so that the public has the opportunity to speak to the changes made to the substitute budget. Deputy Mayor Lenares noted that the pubic can speak to the changes during a Council meeting.

Councilor Bowen expressed concern that the public will not have all of the information to make an informed decision about a budget, such as what will happen when non-tax revenue decreases from one year to the next. He stated that it is important to hold a public hearing to get information to the public and to hear the public's input about something as important as the budget. Councilor Nasinnyk agreed and stated that simply voting down the budget does not give the Council any information as to why the public voted no. Mayor Wright stated that the process introduces more information to the public and gets the people more involved in the process.

Roll Call Vote:

Councilor Banach - Yes
Councilor Boni – No
Councilor Bottalico – No
Councilor Bowen – Yes
Councilor Cohen – Yes
Councilor Lenares – No
Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright – No

Motion failed 4-5

Councilor Cohen moved the following:

Delete from the next to the last sentence of Section 821H of the Charter the following language:

“...total proposed expenditures exceed the total of the current fiscal year's total expenditures...”

Insert in its place:

“...total appropriations exceed the total of the current fiscal year's total appropriations...”

Motion seconded by Councilor Nasinnyk.

Mayor Wright stated that the draft language works as written.

Roll Call Vote:
Councilor Banach - Yes
Councilor Boni – No
Councilor Bottalico – No
Councilor Bowen – Yes
Councilor Cohen – Yes
Councilor Lenares – No
Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright – No

Motion failed 4-5

Councilor Cohen moved the following:

Delete from the first sentence of Section 821J of the Charter the following language:

~~“...if the Substitute Budget is not approved by a majority of those electors voting at the referendum as provided in Section H, the Council shall adopt a budget and establish...”~~

Insert in its place:

“...if the Substitute Budget is rejected by a majority of those electors voting at the referendums provided in Section H, and such majority consists of 10% or more of the total number of qualified electors whose names appear upon the last completed Registry List, the Council shall notice and hold a public hearing prior to adopting a budget and establishing...”

Delete from the second sentence of Section 821J of the Charter the following language:

~~“...or the Substitute Budget is not approved by a majority of those electors voting at the referendum as provided in Section H...”~~

Insert in its place:

“...or the Substitute Budget is rejected by a majority of those electors voting at the referendum as provided in Section H, and such majority consists of 10% or more of the total number of qualified electors whose names appear upon the last completed Registry List...”

(Councilor Cohen stated that the resolution may have to be split into two parts for discussion. Mayor Wright requested that she continue to read the resolution as written.)

Delete from the second sentence of Section 821J of the Charter the following language:

~~“...the Council shall adopt a budget and establish...”~~

Insert in its place:

“...the Council shall notice and hold a public hearing prior to adopting a budget and establishing...”

Delete from the second sentence of Section 821J of the Charter the following language:

~~“...total expenditures shall not exceed the total of the current fiscal year’s expenditures...”~~

Insert in its place:

“...total appropriations shall not exceed the total of the current fiscal year’s appropriations...”

(Councilor Bowen requested that Councilor Cohen read the remainder of this resolution as a separate resolution. Mayor Wright requested that she continue to read the resolution as written.)

Delete from the final sentence of Section 821J of the Charter the following language:

~~“The Final Budget or the Alternate Final Budget shall include an EDUCATION CIRCUIT BREAKER whereby any increase in Board of Education proposed expenditures shall exceed any increase in non-Board of Education proposed expenditures by 0.5% (e.g., if the non-Board of Education budget increases by 2% the Board of Education budget must increase by no less than 2.5%).”~~

Motion seconded by Councilor Banach.

Councilor Cohen again stressed the importance of holding a public hearing after a failed referendum and even after two failed referendums, since after the second failed referendum the budget will go to an automatic three-percent cap and the Council should be able to have an idea about what the public wants. Councilor Cohen

noted that it would be nice to know the mathematical formula involved with the proposed education circuit breaker. She noted that there is a different kind of a cap during revaluation years. She indicated that in the 2008-2009 budget year the mill rate increase was less than three-percent. She noted that the Board of Education's operating budget increased 4.31% in 2008-2009 and the Town's operating budget increased 3.12%, and noted that if the mill rate increase came in higher than three-percent and it got to the point of using the circuit breaker in this situation, the Council would have to figure out how to actually decrease the Board's budget and increase the Towns' budget to come up with the half-percent difference. Mayor Wright stated that there is a formula that accounts for all of that. He stated that the Council does not have any say in the Board's budget other than the budget amount. He stated that if the referendum fails twice the budget will be capped at three-percent which will give a baseline as to how much can be spent on the Board and how much can be spent on the Town. He stated that the circuit breaker is in place to protect education spending in a year in which a three-percent cap is in place.

Councilor Bowen inquired whom the circuit breaker is protecting the Board from and inquired whether it is intended to protect the Board from the Council. Mayor Wright stated that the circuit breaker is to ensure that education gets more money. Councilor Bowen inquired why there is a need to protect the Board of Education, and inquired why the Council is no longer trusted to make wise decisions for the Town. He stated that he takes offense to the statement that the Board needs to be protected from the Council. He noted that last year the Board received a greater increase than the Town received and indicated that if the circuit breaker were applied to that situation it would actually hurt the Board. Councilor Boni stated that the circuit breaker was not his idea. He stated that there are two departments, the Council and the Board, and that the Board's budget is considerably higher than the Town's budget, therefore the Board should get more money than the Town in the event of a tax cap. Councilor Bowen stated that the Charter does not need to mandate the protection of the Board and remarked that history has shown that anyone who is believed to not treat the Board fairly is voted out of office. Councilor Bowen also remarked that public hearings are very important during the budget referendum process, noting an example in the Town of Canton in which a referendum failed four times because the Town was not giving enough money to the Board of Education and there was no communication to the Council from the public as to why the referendums failed and the Council did not know to what degree to increase the Board's budget. He stated that many of Councilor Cohen's comments made a lot of sense, and indicated that many of the recommendations are merely wordsmithing in order to get the document right and to create a document that will serve the Town.

Roll Call Vote:

Councilor Banach - Yes
Councilor Boni – No
Councilor Bottalico – No
Councilor Bowen – Yes
Councilor Cohen – Yes
Councilor Lenares – No
Councilor Nagel – No
Councilor Nasinnyk – Yes
Mayor Wright – No

Motion failed 4-5

(The Council reverted back to agenda item IV-B-1)

Deputy Mayor Lenares moved the following:

WHEREAS, the Town Council has received a draft report from the Charter Revision Commission, through the Town Clerk pursuant to Connecticut General Statutes § 7-191 (b); and

WHEREAS, one public hearing on said draft report was held not later than forty-five days after the submission of the draft report to the Town Clerk; and

WHEREAS, the Town Council has no recommendations for changes in said draft report; and

WHEREAS, the Town Council has complied with all conditions precedent to making said draft report a final report pursuant to Connecticut General Statutes § 7-191;

NOW THEREFORE BE IT RESOLVED, that said draft report is hereby final and the appointing authority shall act on said final report in accordance with Connecticut General Statutes § 7-191.

Motion seconded by Councilor Bottalico.

Councilor Nasinnyk stated that she is not in favor of this resolution due to the number of concerns and recommendations raised during the previous discussion. Councilor Cohen agreed and stated that she does not believe that the Commission and the Council have adequately addressed her concerns throughout the process, and stated belief that the Commission's draft report is incomplete. She stated that there also needs to be a response to the opinions heard during the Public Hearing. Councilor Banach agreed with Councilor Cohen and stated that there has been little regard given to the public's opinion and to the opinion of former Mayors. He stated that he doesn't understand the rush, and stated that he feels that the Public Hearing was a mere formality. Councilor Banach noted that there was absolutely no dissent from the majority party on any of Councilor Cohen's nineteen motions, and remarked that he finds it difficult to believe that somewhere along the lines that something couldn't have been considered in those motions. Mayor Wright stated that the Commission did a fantastic job, and made a great document that will empower the people of Newington to have a greater say in their tax increases. He stated that the people want a referendum and a tax cap. He noted that there are various types of referendums, and stated that unlimited referendum processes are very disruptive to the new fiscal year, and indicated that a permissive referendum process could cause time concerns as well. Mayor Wright stated that limiting the number of referendums to two will allow the process to go back to the Council if the referendum fails twice and will cap the budget at three-percent. He noted that three-percent is the historic rate of inflation since 1925. He stated that it is time to bring the Charter revision to the people for a vote.

Roll Call Vote:

Councilor Banach - No
Councilor Boni – Yes
Councilor Bottalico – Yes
Councilor Bowen – No
Councilor Cohen – No
Councilor Lenares – Yes
Councilor Nagel – Yes
Councilor Nasinnyk – No
Mayor Wright – Yes

Motion passed 5-4.

3 Approval of Proposed Charter

Deputy Mayor Lenares moved the following:

WHEREAS, the Town Council has before it the final report of the Charter Revision Commission, and

WHEREAS, said final report contains a proposed charter drafted pursuant to and in compliance with Chapter 99 of the Connecticut General Statutes; and

WHEREAS, the Town Council has complied with all conditions precedent to approve said proposed charter pursuant to Connecticut General Statutes § 7-191;

NOW THEREFORE BE IT RESOLVED, that pursuant to Connecticut General Statutes § 7-191 (d) the proposed charter is hereby approved.

Motion seconded by Councilor Bottalico.

Councilor Cohen stated that she is not in favor of this motion.

Roll Call Vote:

Councilor Banach - No
Councilor Boni – Yes
Councilor Bottalico – Yes
Councilor Bowen – No

Councilor Cohen – No
Councilor Lenares – Yes
Councilor Nagel – Yes
Councilor Nasinnyk – No
Mayor Wright – Yes

Motion passed 5-4.

4 Set Referendum Date

Councilor Bottalico moved the following:

WHEREAS, the Town Council has approved a proposed charter pursuant to Connecticut General Statutes § 7-191 (d); and

WHEREAS, the Town Council has determined that said proposed charter shall be submitted to the electors for approval or rejection at a special election warned and held for that purpose pursuant to its statutory authority vested in it by Connecticut General Statutes § 7-191 (e); and

WHEREAS, pursuant to Connecticut General Statutes § 7-191 (e), said special election must be held not later than fifteen months after the approval of the proposed charter by the Town Council;

NOW THEREFORE BE IT RESOLVED, that said proposed charter shall be submitted to the electors for approval or rejection at a special election warned and held for that purpose on February 17, 2009 between the hours of 6:00am and 8:00pm at the following polling locations:

| | | | |
|-------|-------------------|-------------------------------------|----------------------------|
| _____ | District 1 | Town Hall | 131 Cedar Street |
| _____ | District 2 | Ruth L. Chaffee School | 160 Superior Avenue |
| _____ | District 3 | Anna Reynolds School | 85 Reservoir Road |
| _____ | District 4 | Elizabeth Green School | 30 Thomas Street |
| _____ | District 5 | John Wallace Middle School | 71 Halleran Drive |
| _____ | District 6 | John Paterson School | 120 Church Street |
| _____ | District 7 | Martin Kellogg Middle School | 155 Harding Avenue |
| _____ | District 8 | John Wallace Middle School | 71 Halleran Drive |

Motion seconded by Councilor Boni.

Deputy Mayor Lenares noted that February 17 is during school vacation week, and expressed concern with holding the vote on that date. He stated that there may be people on vacation that week, and remarked that the vote should be scheduled to allow as many people to participate as possible.

Deputy Mayor Lenares moved to amend the motion to make the referendum date one week later - on February 24. He stated that he has full confidence in the Board and in Dr. Perlini that the vote can be safely held while school is in session. Motion seconded by Councilor Nagel. Councilor Nagel concurred that it would not be an undue burden to hold the vote when school is in session. Councilor Nasinnyk inquired why the date was originally scheduled for February 17. Mayor Wright stated that the original concern was with school safety but noted that there have been many comments that the vote should not be held during school vacation. He stated agreement with moving the date to February 24.

Councilor Nasinnyk expressed concern with the close timeframe of holding the vote on either February 17 or February 24, and inquired whether these dates have been discussed with the Town Clerk and the Registrar. Town Manager Salomone stated that the timeframe is tight but can be met for either date. Councilor Nasinnyk expressed concern with the timing and absentee ballots. She inquired whether the vote has to be held in February. Mayor Wright stated that the vote must be held within fifteen months. Councilor Nasinnyk inquired when the fifteen-month period begins. Atty. Clark replied that the Town must hold the public vote within fifteen months of the Council's acceptance of the Charter draft report. Councilor Nasinnyk inquired why the vote must be held in six weeks when the State statutes require that the vote must be held within fifteen months. She stated that it will save the Town a lot of money to hold the vote on the Charter in conjunction with the November general elections. Councilor Cohen agreed and stated that holding the referendum during the general elections

will eliminate concerns about voter turnout and about school being open. Councilor Nasinnyk stated that holding the vote in November will allow the voters the time to absorb and make a decision about the document. Councilor Bowen agreed and stated that that if the concern is to get it passed for this budget process than the majority vote can keep the budget at under three-percent anyway. Town Manager Salomone stated that according to his understanding the Charter changes, if accepted, will not affect the current budget process anyway because the budget process is already past timeline changes listed in the draft Charter. He stated that any changes will take place for the 2010-2011 budget process and that the 2009-2010 budget process will be governed by the current Charter. Atty. Clark stated that the new Charter will take effect sixty-days after it is ratified by the voters, and stated that there is a valid argument that this current budget process could be affected by the Charter change for events that occur subsequent to the sixty-day period.

Councilor Banach stated that new Charter or not, the majority can hold the budget to whatever it wishes to and inquired why the Town would want to spend the extra \$20,000 to hold a separate vote. Councilor Boni stated that the Charter process has gone on for over a year and stated that holding off on the vote until November would result in people forgetting about the issue. Councilor Bowen remarked that while he understands Councilor Boni's concerns, he believes that the Council should weigh the cost savings and the increased turnout. Councilor Nasinnyk stated that she doesn't understand why the Town should spend the money to hold the separate vote if it could be held in conjunction with the November elections. She stated that even if the Charter is passed on February 24 it will not go into effect until after the new budget has been passed.

Mayor Wright stated that the vote should be held on February 24 while it is still fresh on everyone's mind and he remarked that it is important enough to warrant a special election.

Councilor Nagel reread the motion as written above, changing the date of the referendum to February 24, 2009. Motion seconded by Councilor Boni.

Roll Call Vote:

Councilor Banach - No
Councilor Boni – Yes
Councilor Bottalico – Yes
Councilor Bowen – No
Councilor Cohen – No
Councilor Lenares – Yes
Councilor Nagel – Yes
Councilor Nasinnyk – No
Mayor Wright – Yes

Motion passed 5-4.

5 Establish Referendum Question

Deputy Mayor Lenares moved the following:

WHEREAS, a proposed charter shall be submitted to the electors for approval or rejection at a special election warned and held for that purpose on February 24, 2009; and

WHEREAS, pursuant to Connecticut General Statutes § 7-191 (f), the proposed charter shall be prepared for the ballot by the Town Council and may be submitted in the form of one question;

NOW THEREFORE BE IT RESOLVED, that the form of the one question on the ballot at the special election on February 24, 2009 warned and held for the purpose of approval or rejection of said proposed charter shall be in the following form:

1. **“Shall the Town of Newington adopt the proposed charter that was approved by the Town Council on January 13, 2009 which includes a 3% tax cap, a budget referendum and an education circuit breaker?”**

Motion seconded by Councilor Bottalico.

Councilor Nasinnyk inquired whether the word “mandatory” should be added to the question prior to the word “referendum”. Councilor Banach stated that he is not in favor of the resolution, especially because he is in disagreement with forcing the issue on the public so soon. Councilor Cohen stated that the question should not include mention of the three-percent cap, budget referendum and circuit breaker as doing so directs the public to only part of the process and is not appropriate. She stated that this is a biased question and questioned its legality. Atty. Clark stated that according to the Secretary of the State’s office there are no prohibitions on the wording of the questions. Councilor Cohen again stated that the wording is inappropriate. Councilor Bowen noted former Mayor Randich’s comments that the Charter should not be a political document, and expressed that he is not in favor of the question as written. Mayor Wright stated that it is a simple, straightforward question that highlights the main addition to the Charter

Roll Call Vote:

Councilor Banach - No
Councilor Boni – Yes
Councilor Bottalico – Yes
Councilor Bowen – No
Councilor Cohen – No
Councilor Lenares – Yes
Councilor Nagel – Yes
Councilor Nasinnyk – No
Mayor Wright – Yes

Motion passed 5-4.

V WRITTEN/ORAL COMMUNICATIONS FROM THE TOWN MANAGER, OTHER TOWN AGENCIES AND OFFICIALS, OTHER GOVERNMENTAL AGENCIES AND OFFICIALS AND THE PUBLIC

(tabled until the next meeting)

VI COUNCIL LIAISON/COMMITTEE REPORTS

- Councilor Nagel reported on the Safety Committee:
 - The Committee met with Larry Grundlich of Old Saybrook Youth and Family Services for a presentation on the Healthy Communities Healthy Youth initiative.
- Councilor Nagel reported on the School Code Compliance Committee:
 - The Committee has met and has begun looking for RFPs to meet codes according to State law in regards to bringing all schools up to code for disabled access.
 - Councilor Bowen indicated that he will be joining that committee at its next meeting.
- Mayor Wright reported on the Downtown Revitalization Committee
 - The Committee is holding its next meeting on January 15 at 7:00pm to meet with the architect to review designs.

VII PUBLIC PARTICIPATION – IN GENERAL

Barbara Katzman, 5 Eckart Road: Ms. Katzman expressed disappointment with the results of the votes on the Charter revision. She stated that the vote on February 24 will waste tens of thousands of dollars and expressed concern over absentee ballots for the vote. She stated that it will be an extensive nightmare to prepare to hold the vote in February when it can be held in November. She stated that this takes away the public’s ability to absorb this very complex document. She stated that it is apparent that the document is flawed and it should have been sent back to the Commission for more work.

Gail Kelly, 104 Carriage Hill: Mrs. Kelly stated that having been on the Board of Education and with being involved in the schools she is concerned that no consideration was given to see if there is a conflict with the schools in scheduling the vote for February 24, 2009. She noted that many schools have activities and groups that come in and stated that the vote may be in conflict with existing activities in the schedules, including activities that involve outside groups. She commended the Council for moving the date away from school vacation, but commented that the Council should have contacted the Superintendent prior to setting the date. She inquired as to why the Council is rushing the process.

Michael J. Fox, 1901 Main Street: Mr. Fox applauded Councilor Cohen for her attempts to show some reason in the process. He stated that openness and transparency in the Town government has suffered a great loss.

Carol Anest, 30 Harding Avenue: Ms. Anest requested that the Council check with the Board of Education and Parks and Recreations regarding the referendum date, noting that schedules have already been set for activities. She expressed disappointment in Councilors Boni, Bottalico, Nagel and Lenares who did not state their reasons for voting in favor of the Charter revision and remarked that the Town residents deserve better.

Sandy Lallier, 27 Elton Drive: Mrs. Lallier stated agreement with Ms. Anest's remarks. She remarked that what occurred at this meeting is a disgrace and stated that she hopes that people were watching the meeting. She stated that she does not see how common sense even took place at the meeting and remarked that the process is a laughing stock. She inquired why the vote cannot wait until November when it wouldn't cost the Town any money. She stated that this process has not been for the betterment than Newington, and stated that she will tell as many people as she can about why this is not for the betterment of the Town.

Val Ginn: Ms. Ginn stated that she sat through the Public Hearing and the current meeting she is disgusted with the outcome of the votes, and remarked that it is a slap in the face of the people who came out to participate and who thought that their concerns would have been taken into consideration. She expressed disappointment in being called a Republican.

Joyce Lozinski, 21 Red Rock Circle: Ms. Lozinski stated that she is ashamed to even say that she is a resident of Town and is ashamed with the outcome of the Council's vote and with the amount of money being thrown away by holding the referendum in February when it could have been held along with the general election in November. She expressed disappointment with those Councilors who ignored the public.

Rose Lyons, 46 Elton Drive: Ms. Lyons agreed with the previous speakers and remarked that the rush to hold the vote is so that certain candidates for the November election can say that they fulfilled their pledges. She stated that this process has made public involvement a sham and expressed disappointment in the Councilors who acted as "puppets" and didn't offer their own opinions. She stated that she is disgusted with the process.

VIII REMARKS BY COUNCILORS

Councilor Boni stated that he is proud to be part of the process that will bring the budget referendum to the voters of Newington for approval or disapproval. He stated that property taxes are one of the biggest concerns in the Town and in the State and he is pleased to take a proactive step to deal with this issue. He stated that something has to be done about taxes and this will set guidelines. Councilor Boni remarked that it is still the Council's job to determine and make adjustments to each line item of the budget. He stated that he hopes that future Councils don't wait fifteen years to address the Charter in the future.

Councilor Bottalico stated that he doesn't understand the hassle and that all the public is being asked to do is to give an exact figure on the budget, and in turn the Council will determine how to spend the budget. He stated that it is time to start doing something about the budget.

Councilor Bowen noted a request by a member of the public that a written response is issued to every question that comes before the Council by a member of the public and inquired whether this could be done. Councilor Bottalico stated that it is the Town Manager's responsibility to answer the public's questions.

Councilor Nasinnyk stated that she is not surprised with the outcome of the meeting. She noted that there was one concession that Councilor Cohen was allowed to raise several concerns, both at the current meeting and throughout the process and she stated that it would have made no sense for the Council to accept the revision without hearing her concerns. She also stated appreciation for the roll call votes that were taken for each resolution, as they put each individual Councilor's vote into the record. She remarked that she still does not understand the rush to push the process through from the beginning of the process to now. Councilor Nasinnyk urged members of the public to contact a member of the Council or the Commission with any questions. She stated that while fifteen years is too long, the Charter should not be revised every couple of years and she stated that the Commission may have been more effective with more members appointed. She stated that it is now up to the voters to determine the outcome of the Charter revision.

Councilor Cohen stated appreciation for the opportunity to put her opinions on the official record. She stated that she is not surprised by the outcome. She stated that while the Town's current Charter is a good document that

has served the Town well, there were small items that needed to be tweaked and numbers that needed to be updated to make a good Charter a great Charter. She remarked that rather than making it a great document, the Commission messed it up, starting with when the Commission voted to remove the minimum voter turnout requirements. She stated that a permissive budget referendum could have been added, and stated that it's too bad that the process went in this direction.

Deputy Mayor Lenares stated that he proposed changing the vote date from February 17 to February 24 and stated that he did speak to the Chairman of the Board, who agreed that February 24 is a better date. He stated that the Mayor was initially not in favor of moving the date to February 24 and commented that this proves that he is nobody's puppet.

Councilor Nagel stated that he is proud of what has been accomplished and it is time for the public to make a decision. He noted that he had wished that he could participate more in the current meeting but he had spent the day in the hospital after a fall and is not feeling well. He stated that everyone has a point of view. Councilor Nagel also thanked Library Director Marion Amodeo for the extensive tour of the Library.

Mayor Wright thanked members of the Charter Revision Commission for their time and hard work. He stated that he is excited to move forward and indicated that the process has had full disclosure from the beginning. He noted that on July 17 2007, he along with Councilors Lenares, Bottalico, Nagel, Boni and Cohen signed a pledge that made a commitment to the Town that if elected they would cap taxes at three-percent, and create an automatic (mandatory) referendum process. He stated that it is time to bring the issue to the people and it should be done sooner rather than later. He noted that there have been many meetings and public hearings and stated that the Commission has come up with a good document. Mayor Wright stated that the mandatory referendum will give the voters the chance to vote on any increase greater than three-percent and if the voters choose not to accept a greater increase after two votes then the budget will be capped at three-percent, and the education circuit breaker will go in to effect. He remarked that this process will bring power to the people. He stated that from 2000-2007 the average property tax bill increased nearly sixty-percent and stated that comments against spending \$20,000 to give people a say in the budget process are "interesting". He stated that there is passion on both sides of the issue. Mayor Wright thanked Councilors on both sides of the aisle for their efforts but specifically thanked Councilors Nagel, Lenares, Boni and Bottalico for signing the pledge and keeping their word to the people of the Town.

Councilor Cohen stated that she was not consulted in any way about what went into the Charter revision and requested that the Mayor stop implying that she reneged on the pledge. She stated that she did not sign a pledge to this Charter revision document.

XII ADJOURNMENT

Councilor Bottalico moved to adjourn the meeting at 10:55pm. Motion seconded by Councilor Bowen. Motion passed 9-0.

Respectfully Submitted,
Mrs. Jaime Trevethan
Clerk of the Council